

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

- - - - -

WILL EL, et al.                     )  
   )  
          Plaintiffs,                )  
   )  
          vs.                         ) Civil Action  
   ) No. 2:15-cv-834  
THE CITY OF PITTSBURGH, )  
et al,                                 )  
   )  
          Defendants.                )

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VIDEOTAPED DEPOSITION OF COMMANDER REYNE KACSUTA

- - - - -

October 25, 2017

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1 Commander R. Kacsuta - by Mr. Hollis

2 A. In a car.

3 Q. Okay. And where were the El brothers?

4 A. They came out of the corner market  
5 Frankstown and Homewood.

6 Q. Okay. So that would be you would be  
7 directly across the street from the El brothers?

8 A. Yes.

9 Q. Okay. And you said you saw them coming  
10 out of the market?

11 A. Yes.

12 Q. Did you see them going into the market?

13 A. No.

14 Q. Okay. What did you see them doing as  
15 they were leaving the market, and the market being  
16 the One Stop Store; is that correct?

17 A. Yes.

18 Q. Okay. What did you see them doing as  
19 they were leaving the market?

20 A. I saw them come out of the market. I  
21 saw Beyshaud with a foil object, a green foil  
22 object in his hand.

23 Q. Now, at that point was he facing you or  
24 did he have his back to you?

25 A. First they faced me, and then they made

1 Commander R. Kacsuta - by Mr. Hollis

2 You know, you've been a police officer  
3 for 30 plus years; correct?

4 A. Yes.

5 Q. Okay. So you're driving in a marked  
6 unit; right?

7 A. Yes.

8 Q. Is it unusual that when people see  
9 police cars they look at who's in them?

10 A. No, that is not unusual.

11 Q. Okay. So the fact that he turned  
12 around and he saw your car and he's watching you  
13 as you're watching him, you regarded that as being  
14 unusual?

15 A. Yes.

16 Q. Okay.

17 A. Combined with all the factors that I  
18 had, yes.

19 Q. Okay. Now, let's talk about the other  
20 issue. You said you got complaints about the  
21 store selling synthetic marijuana?

22 A. Yes.

23 Q. Okay. What was the nature of your  
24 complaints?

25 A. Detective Robert Pires, P-I-R-E-S, told

1 Commander R. Kacsuta - by Mr. Hollis  
2 me that they were selling synthetic marijuana from  
3 the store and that the -- it used to be a Kentucky  
4 Fried Chicken across the street, that they were  
5 storing the drugs there. They would take them  
6 across the street to the store and they would sell  
7 them.

8 Detective -- another detective, Dan  
9 Zeltner, also told me that they were selling  
10 synthetic marijuana, and there were other  
11 complaints just from regular citizens.

12 Q. Synthetic marijuana being illegal?

13 A. Yes. At this time it was, yes.

14 Q. At which time? At the time that they  
15 were selling it? At the time that Mr. Pires told  
16 you they were selling it?

17 A. It was all in the same timeframe. It  
18 was illegal.

19 Q. So when did Mr. Pires tell you that  
20 they were selling synthetic marijuana?

21 A. It was a very short timeframe before  
22 this incident.

23 Q. Well, do you recall?

24 A. I don't recall the date.

25 Q. If you said it was June, would that be

1 Commander R. Kacsuta - by Mr. Hollis  
2 incorrect or would that be correct?

3 A. I don't remember the date.

4 Q. What independent investigation did you  
5 take to determine that the store was or was not  
6 selling synthetic marijuana?

7 A. This investigation of the El brothers  
8 and what they came out of the store with was the  
9 first part. That -- the stop of them was an  
10 investigation of the store.

11 Q. Did you ever go into the store to see  
12 if they had synthetic marijuana on the shelves?

13 A. No.

14 Q. Okay. Had you ever talked to any other  
15 customers to determine if they, in fact, had seen  
16 synthetic marijuana on the shelves?

17 A. No.

18 Q. Do you know what a confidential  
19 informant is?

20 A. Yes.

21 Q. Have you ever worked with a  
22 confidential informant?

23 A. Yes.

24 Q. What is a confidential informant?

25 A. Someone who has information that they

1 Commander R. Kacsuta - by Mr. Hollis  
2 are willing to share with us as the police to  
3 conduct an investigation.

4 Q. Okay. Have you ever -- did you ever  
5 use a confidential informant that would  
6 potentially walk in the store and attempt to buy  
7 synthetic marijuana?

8 A. I did not.

9 Q. Okay. Did you ever say that you had  
10 received any anonymous complaints that the store  
11 was selling synthetic marijuana?

12 A. There were anonymous complaints. I  
13 think there were complaints into like the  
14 complaint center.

15 Q. That the store was selling synthetic  
16 marijuana?

17 A. Yes.

18 Q. And you -- you received those calls?

19 A. No.

20 Q. Okay. Did you get the reports? Do you  
21 have the reports of the anonymous calls that were  
22 made complaining --

23 A. I --

24 Q. Let me ask -- let me finish asking the  
25 question. Did you ever receive the reports of the

1 Commander R. Kacsuta - by Mr. Hollis  
2 anonymous calls that were made complaining that  
3 synthetic marijuana was being sold from that  
4 store?

5 A. I received the information from those  
6 reports. I don't know if I physically had the  
7 reports.

8 Q. Okay. How did you receive the  
9 information?

10 A. Through other detectives and through  
11 Detective Pires.

12 Q. Okay. Detective Pires is someone that  
13 at one time worked for you; is that correct?

14 A. No, he never worked for me.

15 Q. Detective Pires is -- was at Zone 5  
16 ever?

17 A. Not when I was there as a lieutenant,  
18 no.

19 Q. Okay. You never worked with Detective  
20 Pires?

21 A. I worked with him, but he never worked  
22 for me.

23 Q. Okay. So when you met or when you were  
24 associated with Detective Pires, what was your  
25 rank?

1 Commander R. Kacsuta - by Mr. Hollis

2 A. I think we were both detectives in the  
3 narcotics unit.

4 Q. Okay. So what you're saying to me is  
5 that he just gave you a blanket statement, and you  
6 took his statement basically for the truth of the  
7 matter, and you acted upon it without making an  
8 independent investigation?

9 A. No, that's not what I'm saying.

10 Q. Okay. Well, Detective Pires tells you  
11 that the store is selling marijuana, synthetic  
12 marijuana?

13 A. Correct.

14 Q. Right? What do you do to confirm that  
15 his statements are true?

16 A. I know that there are other complaints.  
17 I know that other detectives have told me,  
18 including Dan Zeltner, that they were selling  
19 synthetic marijuana there in the store.

20 Q. Okay. So -- so Dan Zeltner --

21 MS. CRESSLER: I'm going to  
22 object. Please let her finish answering the  
23 question.

24 MR. HOLLIS: Sure.

25 Q. Finish answering your question.



1 Commander R. Kacsuta - by Mr. Hollis

2 A. So I watched and I saw the El brothers.

3 Q. Okay. So when did Dan Zeltner tell you  
4 that the store was selling synthetic marijuana?

5 A. It was all around -- I don't know the  
6 specific date, but it was all around the same time  
7 period as the stop of the El brothers.

8 Q. The El brothers were stopped in  
9 February; correct?

10 A. No. July.

11 Q. I'm sorry. July. The El brothers were  
12 stopped in July?

13 A. Yes, sir.

14 Q. All right. You can't recall when you  
15 spoke with Dan Zeltner to confirm whether his  
16 statements were correct?

17 A. No, I don't know the date.

18 Q. You were the commander at that time;  
19 correct? Or the lieutenant of Zone 5?

20 A. I was a shift lieutenant, yes.

21 Q. Okay. One of your job duties, of  
22 course, would be to document information so that  
23 you could determine crime patterns and things of  
24 that sort; correct?

25 A. No.

1 Commander R. Kacsuta - by Mr. Hollis

2 Q. So your role is not to document -- your  
3 role would not have been to document information  
4 either as a -- as a sergeant or a lieutenant?

5 A. No. The detectives would have  
6 documented things.

7 Q. You were a detective at that time;  
8 correct?

9 A. No. I was a lieutenant.

10 Q. Okay. But as a lieutenant, wouldn't it  
11 be your responsibility to document what your  
12 detectives are telling you?

13 A. No. I would not necessarily write down  
14 or document what they -- they tell me. They're  
15 police officers. They tell me they have sources  
16 that are reliable, they have complaints.

17 Q. What was Dan Zeltner's source that you  
18 deemed to be reliable?

19 A. I don't -- I don't know what Dan  
20 Zeltner's source was.

21 Q. What was Bobby Pires's source that you  
22 deemed to be reliable?

23 A. I don't know. I don't know what his  
24 source was. I know that --

25 Q. Did you ask him?

1 Commander R. Kacsuta - by Mr. Hollis

2 MS. CRESSLER: Objection. She was  
3 not finished answering the question.

4 A. I know that both -- I know Bobby Pires  
5 had a lot of sources throughout the entire city,  
6 and I deemed his information to be valid.

7 Q. Without making any independent  
8 investigation on your own?

9 A. That's right. Yes.

10 Q. All right. How many arrests for  
11 synthetic marijuana did your department make out  
12 of that store?

13 A. I know of one.

14 Q. Okay. When was that?

15 A. I don't -- I don't --

16 Q. That would have been prior to this  
17 incident?

18 A. I'm not sure. I'm not sure of the  
19 date.

20 Q. Would it have been prior to your arrest  
21 of the El brothers?

22 A. I don't know. I know there was -- I  
23 know there was one out of the store; I just don't  
24 remember if it was before or after.

25 Q. There was one out of the store?

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2 anonymous calls that were made complaining that  
3 synthetic marijuana was being sold from that  
4 store?

5 A. I received the information from those  
6 reports. I don't know if I physically had the  
7 reports.

8 Q. Okay. How did you receive the  
9 information?

10 A. Through other detectives and through  
11 Detective Pires.

12 Q. Okay. Detective Pires is someone that  
13 at one time worked for you; is that correct?

14 A. No, he never worked for me.

15 Q. Detective Pires is -- was at Zone 5  
16 ever?

17 A. Not when I was there as a lieutenant,  
18 no.

19 Q. Okay. You never worked with Detective  
20 Pires?

21 A. I worked with him, but he never worked  
22 for me.

23 Q. Okay. So when you met or when you were  
24 associated with Detective Pires, what was your  
25 rank?

1 Commander R. Kacsuta - by Mr. Hollis

2 Q. So your role is not to document -- your  
3 role would not have been to document information  
4 either as a -- as a sergeant or a lieutenant?

5 A. No. The detectives would have  
6 documented things.

7 Q. You were a detective at that time;  
8 correct?

9 A. No. I was a lieutenant.

10 Q. Okay. But as a lieutenant, wouldn't it  
11 be your responsibility to document what your  
12 detectives are telling you?

13 A. No. I would not necessarily write down  
14 or document what they -- they tell me. They're  
15 police officers. They tell me they have sources  
16 that are reliable, they have complaints.

17 Q. What was Dan Zeltner's source that you  
18 deemed to be reliable?

19 A. I don't -- I don't know what Dan  
20 Zeltner's source was.

21 Q. What was Bobby Pires's source that you  
22 deemed to be reliable?

23 A. I don't know. I don't know what his  
24 source was. I know that --

25 Q. Did you ask him?

1 Commander R. Kacsuta - by Mr. Hollis

2 A. Yes.

3 Q. Okay. Were you a part of that arrest?

4 A. No.

5 Q. Who was?

6 A. Dan Zeltner.

7 Q. Okay. So you saw that report?

8 A. Yes.

9 Q. Okay. As the commander, would you have  
10 signed off on that arrest?

11 A. I was not the commander.

12 Q. I'm sorry. As the -- as the -- I  
13 thought you --

14 A. I was a lieutenant. I was a lieutenant  
15 in Zone 5.

16 Q. Okay. As the lieutenant, would you  
17 have signed off on that report?

18 A. No.

19 Q. Would you have reviewed that report?

20 A. No.

21 Q. Who would have?

22 A. Depending on when it was written, a  
23 sergeant may have; and if he made an arrest, there  
24 would be personnel who work at our warrant office  
25 who would have signed off on that report.

1 Commander R. Kacsuta - by Mr. Hollis  
2 One Stop Store to determine if they, in fact, had  
3 synthetic marijuana?

4 A. No.

5 Q. Okay. Now, you said that you worked --  
6 you worked in narcotics in the past; is that  
7 correct?

8 A. Yes.

9 Q. Okay. And is it my understanding that  
10 when you're attempting to determine whether  
11 someone's selling a controlled substance there are  
12 several things that you could do to make that  
13 confirmation before you execute a search warrant  
14 or you arrest a person; is that correct?

15 A. Yes.

16 Q. Okay. What are some of those things  
17 that you could possibly -- that you could possibly  
18 do?

19 A. Stop people who are leaving the  
20 location with the drugs in their hand.

21 Q. Okay. What about using controlled  
22 buys?

23 A. That is possible, yes.

24 Q. What is a controlled buy?

25 A. A controlled buy is when you send



1 Commander R. Kacsuta - by Mr. Hollis  
2 either an undercover officer or a confidential  
3 informant in to make a buy for you to buy the  
4 substance to establish probable cause for a search  
5 warrant.

6 Q. Okay. Did you have probable cause to  
7 execute a search warrant at the One Stop Store?

8 A. No, I don't think so.

9 Q. Okay. What would you have needed to  
10 obtain probable cause?

11 A. A controlled buy or someone coming out  
12 of the store with the illegal substance.

13 Q. Did you have officers that were under  
14 your command that worked vice details or  
15 narcotics?

16 A. Yes.

17 Q. Who would those officers be?

18 A. Dan Zeltner was one of them. They  
19 didn't work directly for me, they worked for the  
20 commander, but we would communicate often. So I  
21 wasn't their direct chain of command, but they  
22 worked -- if they were out and they had issues  
23 they -- they could come to me. I can't remember  
24 who else. Vic DiSanti was one of them, Tom Nee.  
25 I don't remember the rest of the detectives'

1 Commander R. Kacsuta - by Mr. Hollis  
2 names.

3 Q. And as their commander, you had the --  
4 the power and the authority to ask them to do  
5 controlled buys or to possibly use confidential  
6 informants if you believed that the store was  
7 selling illegal drugs; is that correct?

8 A. I was not the commander. I was the  
9 lieutenant. And they did not work directly for  
10 me. I did not supervise their day-to-day  
11 activities.

12 Q. Did you have the ability to ask them to  
13 perform buys or to use confidential informants to  
14 determine if illegal drugs were being sold from  
15 that store?

16 A. Yes. We could have discussed that  
17 tactic, but they were the ones that told me, Dan  
18 Zeltner, one of the detectives, was the one who  
19 told me they were selling synthetic marijuana from  
20 the store.

21 Q. Right. So you could have said, hey,  
22 why don't you perform some controlled buys, or why  
23 don't you get a CI into the store. Let's see, in  
24 fact, if we can, you know, get some additional  
25 evidence other than what you're telling me?

1 Commander R. Kacsuta - by Mr. Hollis

2 A. That's speculation on what could have  
3 happened.

4 Q. What I asked you was a specific  
5 question. Could you have done that?

6 MS. CRESSLER: And I will object  
7 to the form.

8 MR. HOLLIS: Thank you.

9 Q. Could you have done that?

10 MS. CRESSLER: If she can answer,  
11 she can, but I will object to the form. You are  
12 asking for speculation.

13 Q. Could you have done that? Could you  
14 have used one of those individuals to send in a  
15 confidential informant or perform a controlled buy  
16 to determine if the store was selling illegal  
17 synthetic marijuana?

18 A. Your question calls for a significant  
19 amount of speculation, and that would be  
20 speculating that we had a confidential informant  
21 who would be willing or able to do that. You're  
22 calling for a ton of speculation on that that I  
23 can't specifically answer.

24 The detectives who worked in the zone  
25 are the ones who told me they were selling

1 Commander R. Kacsuta - by Mr. Hollis  
2 synthetic marijuana. That would lead me to  
3 believe that they were doing some sort of  
4 investigating.

5 Q. Wouldn't that be an assumption?

6 MS. CRESSLER: Objection. She's  
7 still answering the question.

8 Q. Wouldn't that be an assumption, ma'am?

9 MS. CRESSLER: Objection. She  
10 didn't get to finish answering the question.

11 MR. HOLLIS: I thought she did  
12 answer the question.

13 A. That would lead me to believe that they  
14 were conducting an investigation. We were having  
15 a discussion about the illegal activity at the  
16 store and trying to get enough probable cause to  
17 get a search warrant.

18 Q. So you had a conversation about -- a  
19 conversation with Dan Zeltner concerning his  
20 investigation of the One Stop Store?

21 A. No. We discussed and he told me that  
22 they were selling synthetic marijuana. What the  
23 rest of that conversation was I don't remember.

24 Q. And you don't -- you didn't think that  
25 it was important to ask him how those drugs were

1 Commander R. Kacsuta - by Mr. Hollis  
2 being sold?

3 A. I -- I don't know what you mean how --  
4 how they were being sold.

5 Q. Yeah, how were they being sold. How  
6 were the customers obtaining the synthetic  
7 marijuana, where was the synthetic marijuana kept,  
8 you know, important details regarding the sale of  
9 the synthetic marijuana that you believed was  
10 being sold out of that store.

11 A. Those would have been details for Dan  
12 to follow up on with his investigation.

13 Q. But I'm asking you about your  
14 investigation.

15 A. I didn't conduct an investigation.

16 Q. Well, you said that one of the -- the  
17 things that you could do that would be relative to  
18 an investigation is arresting people who walk out  
19 of the store with illegal drugs. You said that;  
20 right?

21 A. Yes.

22 Q. Okay. You also said that Dan Zeltner  
23 was performing an investigation, and you assumed  
24 that based upon the information that he gave you;  
25 correct?

1 Commander R. Kacsuta - by Mr. Hollis

2 A. Yes.

3 Q. Okay. So my question to you is didn't  
4 you think that it was important to ask Dan Zeltner  
5 about the specific details regarding his  
6 investigations?

7 A. No.

8 Q. Okay. And as a commander, you don't  
9 think that -- you didn't think that was important?

10 A. I was not a commander.

11 Q. As a lieutenant, you didn't think that  
12 was important?

13 A. No.

14 Q. Okay. Was Dan Zeltner a part of the  
15 Zone 5 Police Station?

16 A. Yes.

17 Q. Okay. And you outranked him; is that  
18 correct?

19 A. Yes.

20 Q. Okay. And Bobby Pires, was he also a  
21 part of the Zone 5 Police Station?

22 A. No.

23 Q. Okay. What was his rank?

24 A. He's a detective.

25 Q. Okay. And where was he located?

1 Commander R. Kacsuta - by Mr. Hollis  
2 It was a closed business. It was not open to the  
3 public.

4 Q. Were any search warrants executed  
5 either on the One Stop Store or the KFC for  
6 synthetic marijuana?

7 A. I don't know.

8 Q. Did you ever say that you knew the  
9 store was selling synthetic marijuana?

10 MS. CRESSLER: Object to the form  
11 of the question.

12 Q. Did you ever make the statement during  
13 the course of the -- the suppression hearing that  
14 you knew the One Stop Store was selling synthetic  
15 marijuana?

16 A. I don't know. I don't know if that was  
17 my statement. The information I had is the  
18 information I gave you.

19 Q. Would you do me a favor? Would you  
20 please look at what's been marked as CITY-EL86.  
21 Take a look at the -- the first paragraph where it  
22 reads, "The fact I knew they sold synthetic  
23 marijuana in this store, that a detective who had  
24 been a narcotics detective for over 25 years told  
25 me personally they were selling synthetic

1 Commander R. Kacsuta - by Mr. Hollis  
2 marijuana."

3 Does that refresh your recollection as  
4 to what you said on that day during the course of  
5 that suppression hearing?

6 MS. CRESSLER: And I'm going to --  
7 I'm sorry. Just briefly, I'm going to object to  
8 the context. I'd ask that be just she be allowed  
9 to read the question immediately prior to this --

10 MR. HOLLIS: Oh, absolutely.

11 MS. CRESSLER: -- that she was  
12 answering.

13 MR. HOLLIS: Sure. Absolutely.

14 MS. CRESSLER: Okay. And if you  
15 believe that you understand the context of the  
16 question, then please answer.

17 A. The context of this question seems to  
18 be -- the immediate question is him looking over  
19 his shoulder when you were following him.

20 Q. Your response on EL86, it says, "The  
21 fact I knew they sold synthetic marijuana in this  
22 store, that a detective who had been a narcotics  
23 detective for over 25 years told me personally  
24 they were selling synthetic marijuana, the  
25 consistency of the packaging with it being a foil



1 Commander R. Kacsuta - by Mr. Hollis

2 Q. But you -- you told me that at the  
3 point that you requested to speak with them that  
4 they were free not to talk with you; correct?

5 A. They were -- I'm --

6 Q. They didn't have to talk with you if  
7 they didn't want to?

8 A. Beyshaud, I -- I was focused on  
9 Beyshaud because he had the item at that point.  
10 So I believed it was synthetic marijuana, and it  
11 was going to be an investigatory detention to  
12 determine whether or not he had synthetic  
13 marijuana.

14 Q. So what made you believe that it was  
15 synthetic marijuana, ma'am?

16 A. All the factors that I have previously  
17 testified to.

18 Q. Well, what about the item itself? What  
19 about the foil item that you said drew your  
20 attention, that was a colorful foiled item?

21 A. Yes. It was a green foiled item.

22 Q. Well, is it fair to presume that a  
23 convenience store would sell a lot of green  
24 colorful foiled objects?

25 MS. CRESSLER: Object to the form

1 Commander R. Kacsuta - by Mr. Hollis  
2 of the question.

3 Q. Is it unusual that a convenience store  
4 would sell colorful foiled objects?

5 A. I -- I don't know.

6 Q. Okay. And you had never effectuated an  
7 arrest prior to this for synthetic marijuana; is  
8 that correct?

9 A. That's correct.

10 Q. So how did you even know what synthetic  
11 marijuana looked like?

12 A. Because I had seen pictures of it,  
13 because I had talked to other detectives. I don't  
14 remember if I was at a training, I don't know, but  
15 as new drugs come onto the market, you are either  
16 trained, whether it's through an e-mail or  
17 whatever, to know what they look like.

18 Q. Did you have the pictures on you at the  
19 time that you effectuated the stop on William and  
20 Beyshaud El?

21 A. No.

22 Q. What other detectives did you speak  
23 with that shows you pictures of the synthetic  
24 marijuana that you speak of right now?

25 A. I didn't say that I spoke to -- that

1 Commander R. Kacsuta - by Mr. Hollis  
2 the detectives showed me pictures. I knew what it  
3 looked like from -- it's kind of common when new  
4 drugs come out that you're sent an e-mail or you  
5 -- you hear about it through training and you see  
6 pictures, whether it's in a training. I don't  
7 remember specifically if I saw them in a training,  
8 if as other officers were speaking about synthetic  
9 marijuana I looked it up, they told me about it.  
10 It was all those factors together so that I knew  
11 what it looked like.

12 Q. Okay. And what did it look like? It  
13 was just a colorful foiled item; correct?

14 A. Yes.

15 Q. Okay. Was it long? Was it circular?  
16 Was it rectangular?

17 A. It would be more square or rectangular.  
18 It comes in a couple different shapes.

19 Q. Uh-huh. And you said that you had  
20 received prior complaints. Did I ask you when you  
21 received those prior complaints?

22 A. I don't know if you asked me that  
23 question or not.

24 Q. Okay. When did you receive those prior  
25 complaints that the store was selling synthetic

1 Commander R. Kacsuta - by Mr. Hollis  
2 proceed.

3 BY MR. HOLLIS:

4 Q. So at the time that you changed the  
5 direction of your vehicle and you made contact  
6 with Will and Beyshaud El, at that point you  
7 decided you were going to stop them?

8 A. Yes.

9 Q. Okay. And you told both individuals  
10 that there was a nice curb and they should sit  
11 down?

12 A. Okay. You -- I'm confused. Can you  
13 say your question again?

14 Q. You told both individuals that there  
15 was a nice curb in front of them and that they  
16 should sit down?

17 A. You referenced turning the car around.  
18 That's where I'm confused.

19 Q. You turned the car around. You made  
20 contact with Will and Beyshaud El; is that  
21 correct?

22 A. Yes. I turned the car around. I made  
23 the right turn onto North Homewood. When I got  
24 past the pickup truck and I could finally see them  
25 again, I got out and at that point had them stop.